

WSR 22-04-093

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed February 1, 2022, 8:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-13-096.

Title of Rule and Other Identifying Information: Chapter 246-491 WAC, Certificates; and WAC 246-490-200 Electronic reporting of deaths. The department of health (DOH) is proposing amending rules in chapter 246-491 WAC to prescribe the information that displays on the certification of birth resulting in stillbirth, add the certification of birth resulting in stillbirth to existing requirements for a person to prove eligibility to obtain the certification, and make editorial changes. DOH is proposing amending WAC 246-490-200 to remove the exclusion of fetal deaths from being registered electronically.

Hearing Location(s): On March 10, 2022, at 10:00 a.m. In response to the coronavirus disease 2019 (COVID-19) public health emergency, DOH will not provide a physical location for this hearing. This is to promote social distancing and the safety of the residents of Washington state. A virtual public hearing, without a physical meeting space, will be held instead. Register in advance for this webinar <https://us02web.zoom.us/join/91012022000>. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: March 14, 2022.

Submit Written Comments to: Katitza Holthaus, DOH, Center for Health Statistics, P.O. Box 47814, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax 360-753-4135, by March 10, 2022.

Assistance for Persons with Disabilities: Contact Katitza Holthaus, phone 360-236-4311, fax 360-753-4135, TTY 711, email katitza.holthaus@doh.wa.gov, by March 2, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amends chapter 246-491 WAC to prescribe the information displayed on the certification of birth resulting in stillbirth, add the certification of birth resulting in stillbirth to the existing requirements, and make editorial changes. The proposed rule also amends WAC 246-490-200 to remove the exclusion of fetal deaths from being registered electronically.

Reasons Supporting Proposal: In 2021, the Washington state legislature passed HB 1031 (chapter 55, Laws of 2021), which creates a new certification for fetal deaths (the certification of birth resulting in stillbirth) to be issued by the state or local registrar to only the individual who gave birth listed on the fetal death record. Amending WAC 246-491-200 to allow fetal deaths to be registered electronically increases the timeliness of registration and creates efficiency in issuance for families needing the certification of fetal death and the certification of birth resulting in stillbirth.

Statutory Authority for Adoption: HB 1031 (chapter 55, Laws of 2021); and chapter 70.58A RCW.

Statute Being Implemented: HB 1031 (chapter 55, Laws of 2021); and chapter 70.58A RCW.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Not applicable.

Name of Proponent: DOH, governmental.

Name of Agency Personnel Responsible for Drafting: Katitza Holthaus, 101 Israel Road S.E., Tumwater, WA 98501, 360-236-4311; Implementation: Jessica Cole, 101 Israel Road S.E., Tumwater, WA 98501, 360-236-4327; and Enforcement: Jean Remsbecker, 101 Israel Road S.E., Tumwater, WA 98501, 360-236-4307.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Katitza Holthaus, DOH, Center for Health Statistics, P.O. Box 47814, Olympia, WA 98504, phone 360-236-4311, fax 360-753-4135, TTY 711, email katitza.holthaus@doh.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: The proposed rule that prescribes the information displayed on certifications of birth resulting in stillbirth and the procedures for requesting the certification of birth resulting in stillbirth and certification of fetal death are exempt under RCW 34.05.310 (4) (e). Adding the certification of birth resulting in stillbirth to the existing requirements is exempt according to RCW 34.05.310 (4) (e). The editorial changes are exempt according to RCW 34.05.310 (4) (d).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose more-than-minor costs on businesses. DOH assumes the proposed rule will have no new costs and will generate cost savings. In 2018, DOH adopted a rule that mandated all death reports to be submitted electronically via the electronic death registration system (EDRS) to achieve the goal of reaching 100 percent of the state's death records are reported electronically. When EDRS was originally developed, the system excluded fetal deaths. Fetal death reporting would be added to the established electronic system already in use by all Washington funeral directors, certifiers, and local deputy registrars. DOH assumes the proposed rule will have no additional or new costs and will generate cost savings. There is no new equipment or software needed for complying with the proposed rule. DOH assumes the proposed rule will include cost savings for funeral directors who will no longer need to physically travel to the certifier and local deputy registrar as well as time saved by printing the burial transit permit from EDRS.

February 1, 2022
Kristin Peterson, JD
Deputy Secretary
Policy and Planning
Umair A. Shah, MD, MPH
Secretary

OTS-3401.1

AMENDATORY SECTION (Amending WSR 17-22-073, filed 10/27/17, effective 1/1/18)

WAC 246-490-200 Electronic reporting of deaths. (1) Except as otherwise provided in subsection (2) of this section, all deaths that occur in Washington state(, excluding fetal deaths,)) must be reported electronically using the format and system prescribed by the state registrar.

(2) All fetal deaths that occur in Washington state must be reported using the format and system prescribed by the state registrar. Persons required to report fetal deaths must use the electronic system prescribed by the state registrar once the department makes available an electronic format for registering fetal deaths.

[Statutory Authority: RCW 70.58.061 and 43.70.150. WSR 17-22-073, § 246-490-200, filed 10/27/17, effective 1/1/18.]

OTS-3402.1

AMENDATORY SECTION (Amending WSR 20-13-017, filed 6/5/20, effective 1/1/21)

WAC 246-491-159 Items on birth and death certifications and informational copies. Certifications and informational copies of birth and death records issued from the state vital records system must contain only items in accordance with this section.

(1) Unless the items are not available or were not collected at the time of birth registration, certifications of birth, certifications of delayed birth, and informational copies of birth and delayed births will display only the following items:

Vital Record Item	Certification of Birth and Informational Birth Copy	Certification of Delayed Birth and Informational Delayed Birth Copy
State file number	Yes	Yes
Date certificate issued	Yes	Yes
First and middle name(s) of subject of the record	Yes	Yes
Last name(s) of subject of the record	Yes	Yes
Date of birth of subject of the record	Yes	Yes
Facility born	Yes	Yes
Place of birth (city, county, state)	Yes	Yes
Time of birth	Yes	Yes
Sex	Yes	Yes
Mother/parent's name prior to first marriage	Yes	Yes
Mother/parent's place of birth	Yes	Yes
Mother/parent's date of birth or age at the time of child's birth	Yes	Yes
Father/parent's current legal name	Yes	Yes
Father/parent's place of birth	Yes	Yes

Vital Record Item	Certification of Birth and Informational Birth Copy	Certification of Delayed Birth and Informational Delayed Birth Copy
Father/parent's date of birth or age at the time of child's birth	Yes	Yes
Evidence required by RCW 70.58A.120, 70.58A.130, and WAC 246-490-081	No	Yes
Date record filed	Yes	Yes
Fee number	Yes	Yes
Signature of applicant	No	Yes

(2) (a) For deaths registered starting January 1, 2018, long form certifications of death, short form certifications of death, and informational copies of death will display only the following items:

Vital Record Item	Long Form Certification of Death	Short Form Certification of Death	Informational Copy of Death
State file number	Yes	Yes	Yes
Date certificate issued	Yes	Yes	Yes
Fee number	Yes	Yes	Yes
Decedent's legal first and middle name(s)	Yes	Yes	Yes
Decedent's last name(s)	Yes	Yes	Yes
County of death	Yes	Yes	Yes
Date of death	Yes	Yes	Yes
Hour of death	Yes	Yes	Yes
Sex	Yes	Yes	Yes
Age	Yes	Yes	Yes
Social Security number	Yes	No	No
Place of death	Yes	Yes	Yes
Facility or address of death	Yes	Yes	Yes
City, state, zip	Yes	Yes	Yes
Hispanic origin	Yes	Yes	Yes
Race	Yes	Yes	Yes
Residence street	Yes	Yes	Yes
Residence city, state, zip	Yes	Yes	Yes
Residence county	Yes	Yes	Yes
Is residence inside city limits?	Yes	Yes	Yes
Tribal reservation	Yes	Yes	Yes
Length of time at residence	Yes	Yes	Yes
Birth date	Yes	Yes	Yes
Birthplace	Yes	Yes	Yes
Father/parent name	Yes	Yes	Yes
Mother/parent name	Yes	Yes	Yes
((Marital)) Marital status	Yes	Yes	Yes
Spouse	Yes	Yes	Yes
Method of disposition of remains	Yes	Yes	Yes
Place of disposition of remains	Yes	Yes	Yes
City, state of disposition of remains	Yes	Yes	Yes
Disposition date of remains	Yes	Yes	Yes
Occupation	Yes	Yes	Yes

Vital Record Item	Long Form Certification of Death	Short Form Certification of Death	Informational Copy of Death
Industry	Yes	Yes	Yes
Education	Yes	Yes	Yes
U.S. Armed Forces	Yes	Yes	Yes
Informant name	Yes	Yes	Yes
Informant's relationship to decedent	Yes	Yes	Yes
Informant's address	Yes	Yes	Yes
Funeral facility	Yes	Yes	Yes
Funeral facility address	Yes	Yes	Yes
Funeral facility city, state, zip	Yes	Yes	Yes
Funeral director name	Yes	Yes	Yes
Cause of death (A, B, C, and D)	Yes	No	No
Other conditions contributing to death	Yes	No	No
Date of injury	Yes	No	No
Hour of injury	Yes	No	No
Injury at work	Yes	No	No
Place of injury	Yes	No	No
Location of injury	Yes	No	No
City, state, zip of injury	Yes	No	No
County of injury	Yes	No	No
Describe how the injury occurred	Yes	No	No
If transportation injury, specify	Yes	No	No
Manner of death	Yes	No	No
Autopsy	Yes	No	No
Were autopsy findings available to complete cause of death?	Yes	No	No
Did tobacco use contribute to death?	Yes	No	No
Pregnancy status if female	Yes	No	No
Certifier name	Yes	No	No
Certifier title	Yes	No	No
Certifier address	Yes	No	No
Certifier city, state, zip	Yes	No	No
Date signed by certifier	Yes	No	No
Case referred to ME/coroner?	Yes	No	No
File number	Yes	No	No
Attending physician	Yes	No	No
Local deputy registrar	Yes	Yes	Yes
Date received by local deputy registrar	Yes	Yes	Yes

(b) For deaths registered before January 1, 2018, long form certifications of death will contain only the vital record items as indicated for long form certification in (a) of this subsection if such vital record items are available or were collected at the time of death registration.

(c) For deaths registered before January 1, 2018, informational copies of death will contain only the vital record items as indicated for informational death copy in (a) of this subsection if such vital record items are available or were collected at the time of death registration.

(d) The short form certification of death is not available for deaths registered before January 1, 2018.

(3) (a) Certification of fetal death and certification of birth resulting in stillbirth will display only the following items:

((Vital Record Item
Local file number
State file number
Name of fetus (first, middle, last, suffix)
Sex
Date of delivery
Time of delivery
Type of birthplace
Planned birthplace, if different
Name of facility
Facility I.D.
City, town, or location of delivery
Zip code of delivery
County of delivery
Mother's name before first marriage (first, middle, last)
Mother's date of birth
Mother's current legal last name, if different
Mother's birthplace (state, territory, or foreign country)
Mother's residence – Number and street
Mother's residence – Apt no.
Mother's residence – City or town
Mother's residence – County
If you live on tribal reservation, give name
State or foreign country
Zip code +4
Mother's residence inside city limits
How long at current residence?
Name and title of person completing cause of death
Signature of person completing cause of death
Date signed by person completing cause of death
Name and title of person delivering the fetus
NPI of person delivering the fetus
Method of disposition
Date of disposition
Place of disposition
Disposition location – City/town, and state
Name and complete address of funeral facility
Funeral director signature
Initiating cause/condition
Other significant causes or conditions
Estimated time of fetal death
Was an autopsy performed?
Was a histological placental examination performed?

((Vital Record Item
Registrar signature
Date received by local registrar))

<u>Vital Record Item</u>	<u>Certification of Fetal Death</u>	<u>Certification of Birth Resulting in Stillbirth</u>
<u>State file number</u>	<u>Yes</u>	<u>Yes</u>
<u>Date certificate issued</u>	<u>Yes</u>	<u>Yes</u>
<u>First and middle name(s) of fetus</u>	<u>Yes</u>	<u>Yes</u>
<u>Last name(s) of fetus</u>	<u>Yes</u>	<u>Yes</u>
<u>Sex</u>	<u>Yes</u>	<u>Yes</u>
<u>Date and time of delivery</u>	<u>Yes</u>	<u>Yes</u>
<u>Place of delivery (city, county, state)</u>	<u>Yes</u>	<u>Yes</u>
<u>Name of facility</u>	<u>Yes</u>	<u>Yes</u>
<u>Mother/parent's name prior to first marriage</u>	<u>Yes</u>	<u>Yes</u>
<u>Mother/parent's place of birth</u>	<u>Yes</u>	<u>Yes</u>
<u>Mother/parent's date of birth or age at the time of the delivery</u>	<u>Yes</u>	<u>Yes</u>
<u>Father/parent's current legal name</u>	<u>Yes</u>	<u>Yes</u>
<u>Father/parent's place of birth</u>	<u>Yes</u>	<u>Yes</u>
<u>Father/parent's date of birth or age at the time of the delivery</u>	<u>Yes</u>	<u>Yes</u>
<u>Name and title of person completing cause of death</u>	<u>Yes</u>	<u>No</u>
<u>Date signed by person completing cause of death</u>	<u>Yes</u>	<u>No</u>
<u>Name and title of person delivering the fetus</u>	<u>Yes</u>	<u>No</u>
<u>Method of disposition</u>	<u>Yes</u>	
<u>Date of disposition</u>	<u>Yes</u>	<u>No</u>
<u>Place of disposition</u>	<u>Yes</u>	<u>No</u>
<u>Disposition location – City/town, and state</u>	<u>Yes</u>	<u>No</u>
<u>Funeral facility name</u>	<u>Yes</u>	<u>No</u>
<u>Funeral facility address</u>	<u>Yes</u>	<u>No</u>
<u>Funeral director name</u>	<u>Yes</u>	<u>No</u>
<u>Initiating cause/condition</u>	<u>Yes</u>	<u>No</u>
<u>Other significant causes or conditions</u>	<u>Yes</u>	<u>No</u>
<u>Estimated time of fetal death</u>	<u>Yes</u>	<u>No</u>
<u>Was an autopsy performed?</u>	<u>Yes</u>	<u>No</u>
<u>Was a histological placental examination performed?</u>	<u>Yes</u>	<u>No</u>
<u>Local deputy registrar</u>	<u>Yes</u>	<u>No</u>
<u>Data record filed</u>	<u>Yes</u>	<u>Yes</u>
<u>Fee number</u>	<u>Yes</u>	<u>Yes</u>

(b) For fetal deaths registered before October 1, 2022, certifications of fetal death or certification of birth resulting in stillbirth will contain only the vital record items as indicated in (a) of this subsection if such vital record items are available or were collected at the time of fetal death registration.

(c) The certification of birth resulting in stillbirth is not proof of a live birth and is not an identity document.

[Statutory Authority: 2019 c 148. WSR 20-13-017, § 246-491-159, filed 6/5/20, effective 1/1/21.]

AMENDATORY SECTION (Amending WSR 20-13-017, filed 6/5/20, effective 1/1/21)

- WAC 246-491-300 Requirements for ordering certifications of birth, death, ((and)) fetal death, and birth resulting in stillbirth.**
- (1) For certifications of birth, death, ((and)) fetal death, and birth resulting in stillbirth, the state or local registrar shall release certifications only to qualified applicants as permitted by chapter 70.58A RCW.
- (2) For each application, the qualified applicant must submit all of the following:
- (a) Information to correctly identify the record consistent with the requirements of WAC 246-491-310;
 - (b) Identity documentation consistent with the requirements of WAC 246-491-320;
 - (c) Evidence of eligibility consistent with the requirements of WAC 246-491-330; and
 - (d) Fees required by RCW 70.58A.560 and WAC 246-491-990, or evidence that the qualified applicant is eligible to receive certifications of a vital record at no charge as required by WAC 246-491-350.
- (3) All identity documentation and evidence of eligibility documentation submitted to the state or local registrar from the applicant must originate from a source which the state or local registrar can reasonably verify the authenticity of the documentation.
- (4) The applicant must submit all required information and documentation to the state or local registrar within thirty days of the state or local registrar requesting additional information. After thirty days, the application is considered denied.
- (5) When the applicant cannot submit the required information or documentation, the applicant will be given an opportunity through an exception process to explain the circumstances to the state or local registrar. If the circumstances presented would have prevented the applicant from providing items required by this section, the state or local registrar may grant an exception and issue the record.
- (6) The state or local registrar may deny an application if the applicant fails to meet the requirements of this section or chapter 70.58A RCW. If the state registrar denies an application for failing to meet the requirements, the applicant may appeal the decision by requesting a brief adjudicative proceeding pursuant to WAC 246-10-501 through 246-10-505, and RCW 70.58A.550.
- (7) For the purpose of this section:
- (a) "Application" means a documented request for certifications of birth, death, ((and)) fetal death, and birth resulting in stillbirth, including short form certifications of death where applicable.
 - (b) "Birth" includes delayed birth, but does not include birth resulting in stillbirth.
 - (c) "Stillbirth" means the same as fetal death as defined in RCW 70.58A.010.

[Statutory Authority: 2019 c 148. WSR 20-13-017, § 246-491-300, filed 6/5/20, effective 1/1/21.]

AMENDATORY SECTION (Amending WSR 20-13-017, filed 6/5/20, effective 1/1/21)

WAC 246-491-310 Information required to order certifications of birth, death, (~~and~~) fetal death, and birth resulting in stillbirth.

(1) A qualified applicant requesting a certification of birth must submit the following information as it appears on the birth record on a form provided by the state or local registrar:

- (a) First, middle, and last name of the subject of the record;
- (b) First and last name of all parents listed on the record;
- (c) Date of birth; and
- (d) City or county where the birth occurred.

(2) A qualified applicant requesting a certification of death must submit the following information on a form provided by the state or local registrar:

- (a) First and last name of the decedent as it appears on the record;
- (b) Approximate date of death; and
- (c) City or county where the death occurred.

(3) A qualified applicant requesting a certification of fetal death or certification of birth resulting in stillbirth, or both, must submit the following information on a form provided by the state or local registrar:

- (a) First and last name of the fetus as it appears on the record;
- (b) First and last name of the individual who gave birth as it appears on the record;
- (c) Date of delivery; and
- (d) City or county where the delivery occurred.

(4) For the purpose of this section:

- (a) "Birth" includes delayed birth, but does not include birth resulting in stillbirth.
- (b) (("Death" includes)) "Stillbirth" means the same as fetal death as defined in RCW 70.58A.010.

[Statutory Authority: 2019 c 148. WSR 20-13-017, § 246-491-310, filed 6/5/20, effective 1/1/21.]

AMENDATORY SECTION (Amending WSR 20-13-017, filed 6/5/20, effective 1/1/21)

WAC 246-491-320 Identity documentation required to obtain certifications of birth, death, (~~and~~) fetal death, and birth resulting in stillbirth. (1) The qualified applicant must submit identity documentation to the state or local registrar to receive a certification of birth, death, (~~or~~) fetal death, or birth resulting in stillbirth in accordance with this section.

(2) (a) The qualified applicant must submit to the state or local registrar one of the following pieces of identity documentation, valid or expired no more than sixty days that contains the applicant's full name, photograph, and date of birth:

(i) Enhanced driver's license, driver's license, or instruction permit issued by a state or territory of the United States, or the District of Columbia;

(ii) A Washington state identification card or an identification card issued by another state;

(iii) A military identification card;

(iv) A United States passport or passport card; or

(v) An identification document issued by local, state, federal, or foreign government, or federally recognized Indian tribe.

(b) A qualified applicant requesting on behalf of a government agency or courts to conduct official duties may use an identification card issued by their government agency or courts that contains the full name and photograph of the applicant.

(3) If a qualified applicant is unable to submit one identity documentation listed in subsection (2) of this section, they must provide at least two alternate forms of identification. Alternate forms of identification may include, but are not limited to, government issued identifications listed in subsection (2)(a) of this section if expired more than sixty days, letters from government or social agencies, pay statements, utility bills, student identification with photo, or other items acceptable to the state registrar. Alternate forms of identification must at least contain matching first and last names and addresses, or provide the full name, photograph, and date of birth.

(4) For applications received by telephone or internet, the qualified applicant may choose to take an authentication quiz in lieu of submitting identity documents. The authentication quiz must contain or ask information requiring personal knowledge not available from reviewing current information typically found in their wallet or personal possession. If the authentication quiz is not successfully completed, the applicant must submit identity documentation listed in subsection (1) or (2) of this section.

(5) Proof of citizenship is not required information to receive a certification of birth, death, ~~((\otimes)) fetal death, or birth resulting in stillbirth.~~

(6) For the purpose of this section ~~((τ))~~:

(a) "Birth" includes delayed birth, but does not include birth resulting in stillbirth.

(b) "Stillbirth" means the same as fetal death as defined in RCW 70.58A.010.

[Statutory Authority: 2019 c 148. WSR 20-13-017, § 246-491-320, filed 6/5/20, effective 1/1/21.]

AMENDATORY SECTION (Amending WSR 20-13-017, filed 6/5/20, effective 1/1/21)

WAC 246-491-330 Evidence of eligibility. (1) The qualified applicant must submit evidence of eligibility documents to the state or local registrar to prove they are eligible to receive a certification of birth, death, ~~((\otimes)) fetal death, or birth resulting in stillbirth.~~

(2) If the qualified applicant is listed as a party on the record, and their identity documentation provided in WAC 246-491-320 sufficiently links the applicant to the record, then evidence of eligibility is met.

(3) If the qualified applicant is not listed as a party on the record or the identity documentation does not sufficiently link the qualified applicant to the record, the following documentation may serve as evidence of eligibility:

(a) Copies of vital records such as certifications of birth, death, marriage, and divorce from this or another jurisdiction that link the applicant to the requested record;

(b) Copies of certified court orders from a court of competent jurisdiction linking the applicant to the record;

(c) Document or letter from title insurer or title insurance agent handling a transaction on behalf of the decedent;

(d) Document or letter from a government agency or courts stating the certification will be used in the conduct of official duties; or

(e) Other documents that link the applicant to the record as determined by the state registrar.

(4) For the purpose of this section ~~(7)~~:

(a) "Birth" includes delayed birth, but does not include birth resulting in stillbirth.

(b) "Stillbirth" means the same as fetal death as defined in RCW 70.58A.010.

[Statutory Authority: 2019 c 148. WSR 20-13-017, § 246-491-330, filed 6/5/20, effective 1/1/21.]